

1 Scott A. Kronland (SBN 171693)  
2 Stacey M. Leyton (SBN 203827)  
3 Eileen B. Goldsmith (SBN 218029)  
4 Danielle E. Leonard (SBN 218201)  
5 Robin S. Tholin (SBN 344845)  
6 James Baltzer (SBN 332232)  
7 ALTSHULER BERZON LLP  
8 177 Post Street, Suite 300  
9 San Francisco, CA 94108  
10 Tel. (415) 421-7151  
11 Fax (415) 362-8064  
12 skronland@altber.com  
13 sleyton@altber.com  
14 egoldsmith@altber.com  
15 dleonard@altber.com  
16 rtholin@altber.com  
17 jbaltzer@altber.com

*Attorneys for Plaintiffs*

[Additional Counsel not listed]

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES, AFL-CIO;  
AMERICAN FEDERATION OF STATE  
COUNTY AND MUNICIPAL EMPLOYEES,  
AFL-CIO, et al.,

Plaintiffs,

v.

UNITED STATES OFFICE OF PERSONNEL  
MANAGEMENT, et al.,

Defendants.

Case No. 3:25-cv-01780-WHA

**DECLARATION OF STACEY LEYTON  
IN SUPPORT OF PLAINTIFFS' *EX*  
*PARTE* MOTION TO STRIKE  
DEFENDANTS' DECLARATION OF  
NOAH PETERS**

**DECLARATION OF STACEY LEYTON**

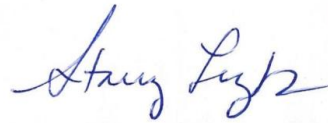
I, Stacey Leyton, declare as follows:

1. I am a member in good standing of the State Bar of California and the bar of this Court. I represent all of the Plaintiffs in this action.

2. On March 11, 2025, I sent an email to counsel for Defendants, asking Defendants to confirm that they would withdraw Mr. Peters' declaration in light of Defendants' refusal to produce any federal government witnesses at the upcoming hearing, or else Plaintiffs would move to strike it. A true and correct copy of that email is attached as Exhibit A.

3. This morning, March 12, 2025, counsel for Defendants responded, and did not agree to strike the Peters Declaration. I responded later this morning. The complete exchange is reflected in Exhibit A.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on March 12, 2025, in San Francisco, California.



---

Stacey Leyton

# Exhibit A

## Stacey Leyton

---

**From:** Stacey Leyton  
**Sent:** Wednesday, March 12, 2025 10:26 AM  
**To:** Helland, Kelsey (USACAN); Todd, James (CIV); Fuchs, Yuri S (CIV)  
**Cc:** Danielle Leonard; Eileen Goldsmith; Scott Kronland; 'Rushab Sanghvi'; 'mblumin@afscme.org'; 'Teague Paterson'; 'Norman@statedemocracydefenders.org'; 'Pooja Chaudhuri'; Robin Tholin; James Baltzer; Tera M. Heintz; Cynthia Alexander  
**Subject:** RE: AFGE v. OPM - Peters Declaration

Counsel,

Defendants did not submit this declaration in support of their opposition to the TRO or at any point indicate that they intended to rely on the testimony of Mr. Peters until you submitted this Declaration in support of your Ex Parte Motion on Monday, March 10. And, in prior communications when you asserted that Mr. Ezell did not have personal knowledge, you did not identify or offer Mr. Peters as an alternative Defendants' witness or in any way indicate that the government intended to rely on his testimony. There was no basis for Plaintiffs to call Mr. Peters for cross-examination, given that you are not and were not relying on his testimony.

On Monday, you added this declaration in what now, in light of your response below, appears to be an attempt to substitute Mr. Peters for Mr. Ezell, who you have claimed to the Court lacks knowledge and who you refuse to produce, along with any other government witness. None of this is proper.

In an abundance of caution, we have asked you to withdraw Mr. Peters' declaration, given that you are not making him available for cross-examination. We take your response as confirmation that you are not producing your declarant for cross-examination and are refusing to withdraw his testimony from the record. You have confirmed you are not relying on this declaration for purposes of the preliminary injunction hearing tomorrow, and cannot now backdoor this to avoid the Court's rulings on Mr. Ezell, and have no reason not to stipulate to withdraw.

We will proceed accordingly.

Stacey

Stacey Leyton  
([hear my name](#))  
Altshuler Berzon LLP  
177 Post Street, Suite 300  
San Francisco, CA 94108  
Office: (415) 421-7151 ext. 304  
Cell: (415) 378-6427  
[sleyton@altber.com](mailto:sleyton@altber.com)  
Pronouns: she/her

---

**From:** Helland, Kelsey (USACAN) <Kelsey.Helland@usdoj.gov>  
**Sent:** Wednesday, March 12, 2025 8:58 AM  
**To:** Stacey Leyton <sleyton@altshulerberzon.com>; Todd, James (CIV) <James.Todd@usdoj.gov>; Fuchs, Yuri S (CIV) <Yuri.S.Fuchs@usdoj.gov>  
**Cc:** Danielle Leonard <dleonard@altshulerberzon.com>; Eileen Goldsmith <egoldsmith@altshulerberzon.com>; Scott Kronland <skronland@altshulerberzon.com>; 'Rushab Sanghvi' <Sanghr@afge.org>; 'mblumin@afscme.org'

<mblumin@afscme.org>; 'Teague Paterson' <TPaterson@afscme.org>; 'Norman@statedemocracydefenders.org' <Norman@statedemocracydefenders.org>; 'Pooja Chaudhuri' <pooja@statedemocracydefenders.org>; Robin Tholin <rtholin@altshulerberzon.com>; James Baltzer <jbaltzer@altshulerberzon.com>; Tera M. Heintz <tera.heintz@atg.wa.gov>; Cynthia Alexander <cynthia.alexander@atg.wa.gov>

**Subject:** RE: AFGE v. OPM - Peters Declaration

Counsel,

We will not withdraw the Peters declaration submitted in support of our ex parte motion. That motion has already been decided. In none of your dozens of depo notices, subpoenas, and email correspondence regarding witnesses did you request that Mr. Peters be made available for testimony. You did not raise this issue after the Court ruled on our ex parte motion. You did not indicate an intent to call him, or a need to cross-examine him, in your notice to the Court regarding witnesses at the hearing.

As the government has explained, because Plaintiffs are bringing claims under the APA, discovery and testimony is not appropriate until the administrative record can be prepared and any issues regarding the scope of that record resolved. See Dkt. 97 at 2.

Sincerely,

Kelsey Helland  
he/him/his  
Assistant United States Attorney  
United States Attorney's Office  
Northern District of California  
Tel: (415) 436-6488  
[Kelsey.Helland@usdoj.gov](mailto:Kelsey.Helland@usdoj.gov)

---

**From:** Stacey Leyton <[sleyton@altshulerberzon.com](mailto:sleyton@altshulerberzon.com)>

**Sent:** Tuesday, March 11, 2025 7:24 PM

**To:** Todd, James (CIV) <[James.Todd@usdoj.gov](mailto:James.Todd@usdoj.gov)>; Helland, Kelsey (USACAN) <[Kelsey.Helland@usdoj.gov](mailto:Kelsey.Helland@usdoj.gov)>; Fuchs, Yuri S (CIV) <[Yuri.S.Fuchs@usdoj.gov](mailto:Yuri.S.Fuchs@usdoj.gov)>

**Cc:** Danielle Leonard <[dleonard@altshulerberzon.com](mailto:dleonard@altshulerberzon.com)>; Eileen Goldsmith <[egoldsmith@altshulerberzon.com](mailto:egoldsmith@altshulerberzon.com)>; Scott Kronland <[skronland@altshulerberzon.com](mailto:skronland@altshulerberzon.com)>; 'Rushab Sanghvi' <[Sanghr@afge.org](mailto:Sanghr@afge.org)>; 'mblumin@afscme.org' <[mblumin@afscme.org](mailto:mblumin@afscme.org)>; 'Teague Paterson' <[TPaterson@afscme.org](mailto:TPaterson@afscme.org)>; 'Norman@statedemocracydefenders.org' <[Norman@statedemocracydefenders.org](mailto:Norman@statedemocracydefenders.org)>; 'Pooja Chaudhuri' <[pooja@statedemocracydefenders.org](mailto:pooja@statedemocracydefenders.org)>; Robin Tholin <[rtholin@altshulerberzon.com](mailto:rtholin@altshulerberzon.com)>; James Baltzer <[jbaltzer@altshulerberzon.com](mailto:jbaltzer@altshulerberzon.com)>; Tera M. Heintz <[tera.heintz@atg.wa.gov](mailto:tera.heintz@atg.wa.gov)>; Cynthia Alexander <[cynthia.alexander@atg.wa.gov](mailto:cynthia.alexander@atg.wa.gov)>

**Subject:** [EXTERNAL] AFGE v. OPM - Peters Declaration

Counsel,

We understand from your filing today that you do not intend to make Noah Peters available for cross-examination at the March 13 evidentiary hearing. We are therefore requesting that you agree to withdraw his declaration, as you did with respect to the declaration of Charles Ezell. Absent that agreement, we intend to file a motion to strike the Peters declaration.

Please let us know your position by 9:00 a.m. tomorrow (Wednesday).

Thank you,  
Stacey

Stacey Leyton

[\(hear my name\)](#)

Altshuler Berzon LLP

177 Post Street, Suite 300

San Francisco, CA 94108

Office: (415) 421-7151 ext. 304

[sleyton@altber.com](mailto:sleyton@altber.com)

Pronouns: she/her

Legal administrative assistant: Desiree Medina

[dmedina@altber.com](mailto:dmedina@altber.com)

## ALTSHULER BERZON LLP

*This email message and any attached documentation are for the sole use of the intended recipient(s) and may contain privileged or otherwise confidential information. If the reader or recipient of this communication is not the intended recipient or someone authorized to receive the message for the intended recipient, please notify the sender immediately by reply email or telephone, and delete the original communication and any attached documentation without copying or disclosing the contents. Any unauthorized review, use, copying, disclosure, or distribution of this communication and any attached documentation is strictly prohibited. Receipt by anyone other than the intended recipient is not a waiver of any attorney-client or work product privilege. Any advice contained in this communication (including attachments) is not intended or written to be used, and cannot be used, as tax advice. Issues regarding taxation or tax law should be referred to the intended recipient's tax advisor.*